

BUMED-2325
M9-2/ProstDev
14 Jul 1952

MEMORANDUM

From: Director, Comptroller Division
To: Deputy and Assistant Chief of Bureau

Subj: Prosthetic and Orthopedic Appliances; definition
for and the furnishing of

Encl: (1) BUMED-2325 ltr, M9-2/ProstDev, of 14 July 1952
to Chairman, BuMed Policy Board

1. The enclosed letter presents several problems, with recommended solutions, which are believed to be proper matters for consideration by the Policy Board. If you concur, it is suggested that enclosure (1) be presented to the Policy Board for such action as is considered appropriate.

M. K. CURTIS
Comptroller

DUMED-2325

26 JUL 1952

M9-2/ProsDev

From: Director, Comptroller Division
To: Chairman, Budget Policy Board

Subj: Prosthetic and Orthopedic Appliances; definition for
and the furnishing of

Encl: (1) Budget ltr of 27 March 1952 to the Veterans Administration
(2) DUMED-11 ltr M9-2/Art. Limbs of 7 April 1952 to SecNav

I. STATEMENT OF PROBLEMS

The policy of the Bureau as to what constitutes an orthopedic or prosthetic appliance has reversed. By way of example, the Bureau files indicate that on 9 June 1950 the U. S. Naval Hospital, Oakland, California was advised, ".....if in the opinion of the Commanding Officer an orthopedic appliance could not be attached to a remaining part or a stump of the body, and a wheel chair would be the only means of locomotion available to the patient, and that, no other appliance will serve the purpose of the individual, a wheel chair should then be considered an orthopedic appliance." (The files do not indicate that this authority to consider a wheel chair an orthopedic appliance was ever extended to any other activity.) Over a year later, the U. S. Naval Hospital, St. Albans, New York, addressed a letter to the Bureau containing the question, "Are wheel chairs considered to be orthopedic appliances?" In responding to this letter on 9 August 1951, the Bureau stated, "Under recent rulings by the President the care of almost all of these types of patients is the responsibility of the Veterans Administration. Therefore, it is not permissible for naval hospitals to issue wheel chairs to active duty members who are about to be separated from the naval service. Further, wheel chairs are not considered to be orthopedic appliances by this Bureau." (Underscoring supplied.)

From the above it appears that this Bureau had reversed its policy with respect to considering wheel chairs as orthopedic appliances as a result of "recent rulings by the President." However, this would not alter the fact that one hospital only had been granted authority to consider a wheel chair an orthopedic appliance for over a year, and the other naval hospitals were not. Consequently, it is apparent that an overall policy was lacking in this respect. Moreover, while Chapter 24 of the Manual of the Medical Department mentions artificial eyes, eye glasses, supports and braces, hearing aids, and artificial limbs specifically, it also contains the wording "and other orthopedic appliances," which is far from being definitive.

Further, in addition to the lack of a definition of what shall constitute a prosthetic or orthopedic appliance, a firm Bureau policy with respect to the responsibility of the Medical Department for providing specific items to various categories of personnel has never been established. The need for a firm policy in this regard was increased by a recent request of the Secretary that this

Bureau look into current law and regulations pertaining to responsibility for furnishing orthopedic and prosthetic appliances to physically retired personnel with a view to possible improvement of a legislative and administrative situation which now results in ambiguity.

II. DISCUSSION

In a letter of 27 March 1952 from the Bureau of the Budget to the Veterans Administration, enclosure (1), the opinion was expressed that "..... the general hospital per diem reimbursement rate includes the cost of prosthetic appliances furnished by a hospitalizing agency to the beneficiary of another agency receiving inpatient care." This opinion was expressed in response to inquiries directed to the Bureau of the Budget by the Veterans Administration, which were occasioned in turn by the rejection of billings by the Army and some billings by the Navy (due to conflicting interpretations within the Bureau, of Bureau of the Budget opinion) for prosthetic appliances furnished beneficiaries of the Army and Navy by Veterans Administration Hospitals. This situation arose from Hask Committee recommendations which resulted in the transfer of certain types of cases to the Veterans Administration prior to these cases becoming Veterans Administration beneficiaries.

At a meeting called by the Veterans Administration on 22 April 1952, attended by representatives of the Army, Navy, Air Force and Public Health Service, the opinion expressed by the Bureau of the Budget was discussed at considerable length. It was determined that all services would rewrite their regulations concerning this point, and that 1 July 1952 would be the date of implementation.

However, there are several factors that must be considered by this Bureau prior to revising the applicable parts of the Manual of the Medical Department. For example, the tone of the 27 March 1952 letter from the Bureau of the Budget to the Veterans Administration seems to indicate that the terms prosthetic appliance and orthopedic appliance are synonymous. Moreover, it is the position of the Veterans Administration that their beneficiaries should be provided with whatever is deemed essential to their treatment, provided they are entitled to the appliance. This position would require the Bureau to furnish dentures when teeth are extracted resultant to treatment or would require the furnishing of a limb as a result of an amputation. Many naval installations do not have the facilities or personnel available to furnish the type of service desired, which immediately gives rise to the question of procurement from commercial sources and the question of financial support for such projects.

Further, were the Bureau to agree to furnish all such items required by beneficiaries of the Veterans Administration hospitalized in naval hospitals, the Navy would find itself under current regulations in the position of providing

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prosthetic and orthopedic appliances to such personnel while at the same time denying many of them to Fleet Naval Reserve, Fleet Marine Corps Reserve and retired Naval and Marine Corps personnel. Moreover, it is apparent that unless limitations are placed on the furnishing of prosthetic appliances and orthopedic appliances to beneficiaries of other government agencies the cost would affect the patient day cost. The available information in this respect indicates that the furnishing of various orthopedic and prosthetic appliances to beneficiaries of the Veterans Administration during fiscal year 1951 amounted to \$9,559.10. Reports on file do not reveal whether or not all of these issues were made incident to and as a part of inpatient care. However, according to information received from the Naval Hospital, Oakland, California ".....no inpatient care was furnished as a part of and incident to the issuance of prostheses manufactured for Veterans Administration beneficiaries during fiscal year 1952." Had all these appliances been furnished as a part of inpatient care, and without reimbursement for the actual cost for manufacturing the appliances, an increase of 2 1/2 cents per patient day for Veterans Administration beneficiaries and an increase of approximately 1/10 of a cent per day for all patients would be involved. In this connection, all items of prosthesis were furnished by Oakland and Philadelphia, and the open purchase of such appliances by any naval hospital is not included.

In connection with the furnishing of prosthetic appliances to retired naval personnel, the Bureau files contain a letter to The Secretary of the Navy dated 7 April 1952, copy attached as enclosure (8). Therein the Bureau went on record that it ".....will process in the conventional manner a change in the Manual of the Medical Department which will authorize naval medical activities to furnish prosthetic appliances other than spectacles and hearing aids to retired members not on active duty either as an inpatient or as an outpatient to the extent that medical facilities of the Navy permit....."

It would seem, therefore, that the combination of the recent letter to the Secretary and the Bureau of the Budget letter of 27 March 1952 could be used advantageously as a point of departure from which firm policies with respect to the furnishing of prosthetic and orthopedic appliances to beneficiaries of the Armed Services and beneficiaries of other Government agencies could be drawn, in addition to the development of a definition for the terms prosthetic and orthopedic appliances.

III. RECOMMENDATIONS

Apparently there are two methods by which a definition of what constitutes a prosthetic or orthopedic appliance and a policy with respect to the responsibility of the Medical Department for providing such items to certain categories of personnel may be obtained. One of these would be through the drafting of appropriate legislation. However, this method is time consuming and could possibly result in the application of limitations upon present operations and reduction in administrative discretion.

The other method would be to revise the Manual of the Medical Department. It is believed that this method is to be preferred. Therefore, it is recommended that the Manual of the Medical Department be revised to provide for the furnishing of prosthetic and orthopedic appliances to retired naval personnel.

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pliances other than spectacles and hearing aids to retired members not on active duty either as an inpatient or as an outpatient to the extent that medical facilities of the Navy permit. It is believed that the intent of the foregoing would be accomplished were the following change in language made in the Manual of the Medical Department:

"24-25. PROCUREMENT OF SPECIAL ITEMS

(3) Orthopedic and Prosthetic Appliances.-

(a) Artificial eyes, eye glasses, supports and braces, hearing aids (including replacement parts and batteries), artificial limbs, and other orthopedic and prosthetic appliances required for persons in the naval service are a proper charge against the appropriation under the cognizance of the Bureau of Medicine and Surgery. When prescribed by the medical officer, procurement of such items may be made under local purchase procedures.

(b) Orthopedic and prosthetic appliances required for persons in the naval service on active duty are chargeable to the appropriation Medical Care, Navy, when recommended by the medical officer. When personnel on active duty make application to a naval hospital for such appliances, the admission of these personnel to the sick list is not required unless deemed necessary by the commanding officer of the naval hospital concerned.

(c) Orthopedic and prosthetic appliances, except for hearing aids and eye glasses, required for active duty personnel of the Army and Air Force, while patients in naval hospitals, are also a proper charge against the appropriation Medical Care, Navy. Likewise the Army and Air Force will furnish without charge orthopedic and prosthetic appliances except hearing aids and eye glasses, for persons in the Naval Service while patients in Army and Air Force hospitals.

(d) ~~Members of the Navy and Marine Corps (including the reserve components) retired with pay who have not elected or are not eligible to receive benefits of the Veterans Administration are eligible to receive orthopedic and prosthetic appliances, other than hearing aids or replacement parts and batteries required therefor, and spectacles when eligible for treatment for a disability resulting from a service-connected injury or disease while on active duty or as a result of a service-connected injury or disease while on active duty. Such appliances must be recommended by a medical officer as part of, and incident to treatment. Such appliances may be furnished only to members of the naval service on active duty. Members of the Army and Air Force~~

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~~Retired with pay~~ are ~~eligible~~ to receive orthopedic and prosthetic appliances, except for hearing aids and ~~spectacles~~, while ~~admitted~~ for inpatient treatment ~~at~~ at naval hospitals. On the other hand, members of the Navy and Marine Corps retired with pay who were furnished hearing aids while on active duty, and who are not beneficiaries of the Veterans Administration, may be furnished replacement of hearing aid upon the same basis as the initial issue. However, except in unusual circumstances, such replacement shall not be effected within 2 years of the initial furnishing or the last replacement of the appliance and then only with prior bureau approval. Wheel chairs are not considered to be orthopedic appliances, and are not to be issued to patients for their permanent use upon discharge from a naval medical activity.

In the absence of availability of naval medical activities, Retired Naval and Marine Corps personnel and Fleet Naval and Marine Corps Reservists who served in either World War I or II as well as persons coming within purview of Public Law 28, Eighty-second Congress, may be advised that they may obtain orthopedic and prosthetic appliances for service-connected disabilities from a Veterans Administration facility after presenting a disability claim (VA Form 326) and having it adjudicated by the Veterans Administration."

With respect to the furnishing of prosthetic and orthopedic appliances to beneficiaries of other Government agencies it is recommended that the Manual of the Medical Department be changed to read: "24-25. PROCUREMENT OF SPECIAL ITEMS

are

(e) "Orthopedic and prosthetic appliances such as artificial limbs, trusses, crutches, braces, or shoes required for the treatment of beneficiaries of other Government agencies shall be furnished as a part of inpatient care when the beneficiary is entitled to the appliance. Such appliances are properly chargeable to the appropriation Medical Care, Navy. The cost of such material is considered to be included in the per diem reimbursement rate. Similarly the cost of fitting or repair is chargeable to Medical Care, Navy while the beneficiary is in an inpatient status.

Spectacles, hearing aids, wheel chairs and dental prosthesis shall not be furnished to beneficiaries of other government agencies.

Orthopedic and prosthetic appliances, or services for fitting or repairing such appliances for beneficiaries of other government agencies in an outpatient status can be made, when properly authorized by the agency concerned, on a reimbursable basis when facilities are available. Spectacles, hearing aids, wheel chairs and dental prosthesis shall not be serviced for beneficiaries of other government agencies.

(f) Servicing of hearing aids and replacement of parts thereof shall be limited to the manufacturer's guarantee and shall be based upon a personal relationship between the recipient and the manufacturer only.

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(g) The furnishing of prosthetic and orthopedic appliances to dependents at Government expense is not authorized.

(h) The term prosthetic appliance as used herein pertains to the artificial replacement part substituted for a missing natural member, such as an eye or leg. An orthopedic appliance is a device developed for the purpose of correcting deformities or irregularities present in an existing part of the anatomy."

It is believed that the above revisions and additions to the current regulations appearing in the Manual of the Medical Department may satisfy the Veterans Administration and will serve to preclude a substantial adverse effect on the patient day cost.

M. E. GARDNER
Controller

EXECUTIVE OFFICE OF THE PRESIDENT

GGPX

BUREAU OF THE BUDGET

Washington 25, D. C.

Mar 27 1952

My Dear Mr. Gray:

This will reply to your letters of December 28, 1951, and February 15, 1952, in which you inquire whether the general hospital per diem reimbursement rate includes the cost of prosthetic appliances furnished by an agency to beneficiaries of another agency hospitalized on a reimbursable basis.

Because of the difficulties inherent in determining the exact cost of care rendered to an individual patient and the administrative expense which would be involved for separate billings of each case, it is desirable that Federal hospital agencies use a standard per diem rate representing a fair average of costs among them as a basis for reimbursement. Use of this rate is predicated on the assumption that it covers all costs incurred in the treatment of inpatients, and that cases involving unusual costs will be counterbalanced by cases incurring less than average costs.

Accordingly, the Bureau of the Budget has considered that the general hospital per diem reimbursement rate includes the cost of prosthetic appliances furnished by a hospitalizing agency to a beneficiary of another agency receiving inpatient care.

Sincerely yours,

(Signed) F. J. LANTON

Director

Honorable Carl E. Gray, Jr.
Administrator of Veterans' Affairs
Veterans Administration
Washington 25, D. C.

ENCLOSURE (1)

COPY

BUMED-11
MP-2/Art. Lines
7 April 1952

From: Chief, Bureau of Medicine and Surgery
To: The Secretary of the Navy

Subj: Orthopedic and prosthetic appliances for retired members of the
Naval Service

Ref: (a) Your memo of 3 March 1952 to Cited

1. By memorandum of 3 March 1952, the Chief, Bureau of Medicine and Surgery was asked to look into the current law and regulations pertaining to responsibility for furnishing orthopedic and prosthetic appliances to physically retired personnel. This research was to be made with a view to possible improvement of a legislative and administrative situation which resulted in certain ambiguities experienced by retired members of this respect.
2. Section 414(b) of Title IV, the Career Compensation Act, approved October 12, 1949 (37 USC 204), provided that duties, powers and functions incident to disability retirement pay, hospitalization and recomminations, shall be vested "in the Secretary concerned or in the Administrator of Veterans' Affairs under regulations promulgated by the President."
3. This section of the Career Compensation Act was implemented in due course by Executive Order 10122 of 14 April 1950 prescribing briefly that:
 - a. Responsibility for hospitalization of members permanently retired by reason of physical disability or of former members receiving disability retirement pay who require hospitalization for chronic diseases is vested in the Administrator of Veterans' Affairs.
 - b. Responsibility incident to hospitalization of members permanently retired by reason of physical disability who also are entitled to and do elect to receive Veterans Administration benefits is vested in the Administrator of Veterans' Affairs.
 - c. Responsibility incident to hospitalization of members permanently retired for physical disability (or of former members receiving disability retirement pay) not included in a or b above is vested in the Secretary of the Navy (Army, Air Force).
 - d. Responsibility incident to hospitalization and recommination of members of temporary disability retired list is vested in the Secretary of the Navy (Army, Air Force).

4. Responsibility for payment of disability retirement pay is vested in the Secretary of the Navy (Army, Air Force).

5. The Back Committee procedures which were approved by the President on 3 February 1951 effected a policy with respect to use of Veterans Administration facilities for certain categories of patients including active duty patients. This was contemplated the movement of patients active and inactive for designated types of specialized medical care and also other patients anticipated as unfit for return to duty. The approval of the Back Committee procedures by the President did not appear to affect the responsibilities stated in Executive Order 10122.

6. At the time of the enactment of the Career Compensation Act in 1949 all members of the Naval Service including the reserve components retired with pay were considered eligible by law and regulation for inpatient and outpatient medical care. This eligibility was last recognized in Article 0430, U. S. Navy Regulations 1945 and was further recognized by both the 1945 and the current versions of the Manual of the Medical Department. These regulations reflected certain restrictive considerations. For example, emergency medical expenses from sources other than naval hospitals were not considered allowable for inactive duty personnel. Spectacles were authorized by appropriation acts for active duty personnel due to an understanding during the war with an Appropriations Committee that spectacles would not be purchased for persons not on active duty. Many years before this hearing aids for persons not on active duty were ruled out by legal opinion. Other types of prosthetic appliances were apt to be more important to treatment of a patient but at the same time the requirements of the patient in this respect were likely fulfilled prior to retirement or release to inactive duty. As a consequence the Bureau has been confronted with a reluctance by budget officials to provide for prosthetic appliances for persons not on active duty. The Chief of the Bureau, however, believes that the implementation of the Career Compensation Act of 1949 by Executive Order 10122 is more specific than theretofore with respect to the responsibilities of the Secretary of the Navy for medical care of retired members (physical disability) who have not elected to receive or who are not eligible for medical care as Veterans Administration beneficiaries.

7. In view of the foregoing, the Bureau will proceed in the conventional manner a change in the Manual of the Medical Department which will authorize naval medical activities to furnish prosthetic appliances other than spectacles and hearing aids to retired members not on active duty either as an inpatient or as an outpatient to the extent that medical facilities of the Navy permit. There will be retained the requirement that the appliance be prescribed by a naval medical officer. This proposed change in the Manual will be reviewed for legality by the Judge Advocate General in accordance with prescribed procedures and will be accompanied by an appropriate presentation by the Bureau

in the preparation and submission of fiscal estimates, Medical Care, Navy. The Substance of the change will be proposed similar to the following:

"24-25. PROCUREMENT OF SPECIAL ITEMS"

• • •

(4) Members of the Army, Navy, and Marine Corps
including the United States Coast Guard who have
been injured or disabled in the line of duty of the
United States Coast Guard are eligible to receive
orthopedic and prosthetic appliances, except for
hearing aids and
dentures, while admitted for inpatient
treatment in naval hospitals.

7. Attention is invited to the fact that Executive Order 10122 vested in the Administrator of Veterans' Affairs duties, powers and functions incident to the hospitalization of members retired by reason of physical disability who require hospitalization for certain chronic diagnoses, and for other members who are eligible for and about to receive hospitalization in Veterans Administration facilities. I understood this has been construed by the Veterans Administration in some cases not to include responsibility for outpatient treatment, particularly in the chronic cases, when the member has not alerted to be admitted for Veterans Administration benefits. The position of the Bureau of Medicine and Surgery, however, is that the duties, powers and functions vested in the Secretary of the Navy incident to the hospitalization of members placed on the temporary disability retired list, includes includes responsibility for outpatient care. Regulations which permit only admission for inpatient care in the experience of the Bureau has a tendency to result in hospitalization when outpatient care would suffice. This probability will apply to treatment in which the use of orthopedic or prosthetic appliances is indicated.

8. In connection with this general subject the Bureau finds the following evidence of variation in policy within the Department of Defense:

- (a) Pursuant to language of AR 40-506 of 9 October 1950, as amended by CL-4, Army medical facilities may authorize prosthetic devices for retired inactive members:

"Prosthetic devices may be furnished retired personnel of the Armed Forces, including members of Regular and Reserve components placed on the temporary disability retired list and members of Regular and Reserve components permanently retired for physical disability, except those with chronic disease, only when required in connection with the treatment of the condition for which hospitalized."

Hearing aids are treated separately:

"Initial issue of hearing aids will be made only at Walter Reed Army Hospital to Regular Army and Air Force retired personnel, and members of Regular and Reserve components permanently retired for physical disability, except those with chronic diseases, who are treated on either an inpatient or outpatient basis. Replacements, repairs, batteries, and cords will not be furnished."

Orthopedic footwear and spectacles also are treated separately and retired members are not authorized to receive those services at all.

Prosthetic dental appliances are authorized when adequate facilities are available.

- (b) Pursuant to the language of Air Force Letter 160-35 supplementing Air Force Regulation 160-73, both dated 17 May 1951, Air Force medical facilities may furnish prosthetic devices for retired inactive members:

"When available facilities are adequate."

NOTE: This authority includes prosthetic dental appliances, hearing aids, orthopedic footwear and spectacles.

9.

- (a) Herebefore VA Regulation 6060(n)(3) provided:

"(A) Outpatient treatment, medical or dental, including necessary medicines, prosthetic appliances, and other supplies, may be rendered to the following applicants under the conditions stated: (September 21, 1945)

• • •

"(3) (Retired) persons who have elected, under Public Law 314, 78th Congress, to receive disability compensation from the VA for a service-connected disease or injury and who are in need of treatment for said service-connected compensable disease or injury. (Except that such persons who served during the Spanish-American War, Philippine Insurrection, or Boxer Rebellion may be furnished treatment when in need thereof not only for the compensable condition but for any disease or injury under the provisions of subdivision (8) of this sub-paragraph. (A.D. 872))"

- (b) The Bureau of Medicine and Surgery understands that by VA TRX dated 18 March 1952 VA activities were advised:

"Pending amendment of VA Regulation 6060(a)(3) The following will govern upon application outpatient treatment, medical or dental, medicines, prosthetic appliances or other supplies may be rendered to retired persons who are veterans of World Wars including Korean campaign and who have elected under Public Law 314, 78th Congress, to receive disability compensation from the VA for service-connected disease or injury such election having been filed with the VA when they are in need of treatment for service-connected disease or injury. If the retired person served only in peacetime outpatient treatment may not be furnished until award of compensation by the VA pursuant to his election. Upon award of compensation such retired person will be entitled to treatment for such service-connected disease or injury."

- (c) VA Regulation 6116 as recently amended provides:

"(A) (1) Pursuant to the provisions of Public Law 308, 78th Congress, approved May 23, 1944, an artificial limb or other appliance will be supplied or repaired, when medically determined necessary, for any ~~officer~~ or enlisted man retired from active military or naval service who had lost a limb or the use thereof through injury or disease incurred or contracted in line of duty in the military or naval service at any time. (November 30, 1951)

(2) No commutation in lieu of such artificial limb or other appliance will be payable on or after May 23, 1944. (December 10, 1945)

(3) 'Other appliance' will be taken to mean any appliance which is medically determined necessary to replace, support, or substitute for, a missing limb, or an anatomical part thereof such as a hand or a foot; or to support a limb or an anatomical part thereof so deformed or weakened as to constitute loss of use. The term will include stumps, socks, braces, orthopedic shoes, wheel chairs, crutches, and such other

appliances as approved by the Chief Medical Director or his designate.

(4) 'Lost the use thereof' will be taken to mean the loss of use of a limb or an anatomical part thereof so as to preclude normal use of the affected part without the aid of an appliance. Whether or not a retired person applying for benefits under this regulation has lost the normal use of a limb or an anatomical part thereof is a matter for determination by the examining physician.

(5) Such artificial limbs or other appliances, or repairs thereto, will be supplied at Field stations in accordance with the general procedure pertaining to the furnishing of such items for treatment of a service-connected disability. (January 25, 1958)

(6) Persons defined in subparagraph (A)(1) of this paragraph who are furnished an artificial limb or other appliance will be additionally entitled to fitting and training in the use thereof (Section 104, Title I, Public Law 344, 78th Congress). (December 10, 1945)"

10. The Bureau of Medicine and Surgery considers that the policy which will be established by the ultimate approval of the changes proposed in the Manual of the Medical Department will represent a slightly more liberal attitude toward retired members. It will more nearly resemble the provision exhibited in the cited Air Force regulation. Above all, it will avoid future situations similar to that experienced by Sergeant Krywinski. In the meantime, the liberalization of VA Regulations represented by the cited JMC message will also tend to reduce requests to naval medical activities having inadequate facilities for the purpose by retired members who may also be eligible for prosthetic devices.

R. L. FINE